



Arnold Schwarzenegger
Governor

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<http://www.waterboards.ca.gov/sandiego>

December 23, 2008

VIA CERTIFIED MAIL
7008 1140 0002 8456 9724

In reply refer to:
CWU:255223:kschwall

The County of San Diego
Land Development Division
1600 Pacific Highway, Room 212
San Diego, CA 92101

Attn: Chandra Wallar
Deputy Chief Administrative Officer

RE: NOTICE OF VIOLATION AND REQUIRED TECHNICAL REPORT

Dear Ms. Wallar,

Enclosed is **Notice of Violation (NOV) No. R9-2008-0164** for the violations of California Regional Water Quality Control Board, San Diego Region (Regional Board) Order No. R9-2007-0001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108758, *Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport (Order).*

The violations were identified during a review of San Diego County's Jurisdictional Urban Runoff Management Program (JURMP) and JURMP Annual Report Fiscal Year 2007 – 2008 (Annual Report) by the Regional Board and a subsequent interview with the County of San Diego (County). The failure to properly implement the requirements of the Order, as detailed in the NOV, prevents the County from effectively reducing pollutants to the maximum extent practicable and from maintaining or reducing downstream erosion and protecting stream habitat. Furthermore, the proper implementation of the Order is vitally important as Total Maximum Daily Loads are adopted and implemented within your jurisdiction.

The Regional Board needs specific information to determine if appropriate measures have been taken to address violations noted in the enclosed NOV No. R9-2008-0164, to determine the extent of the violations, and to assess the need for further enforcement action.



December 23, 2008

Therefore, pursuant to California Water Code section 13267 and 13383, the County is directed to prepare and submit a Required Technical Report (RTR) to the Regional Board no later than **5:00 PM, on January 30, 2009**. Pursuant to Section 13268 of the Water Code, a violation of Water Code Section 13267 requirement may subject you to civil liability of up to \$1,000 per day for each day in which the violation occurs.

The RTR shall provide the following information:

1. An explanation section describing the reasons why the violations occurred.
2. A planned actions section describing how the County plans to correct these violations and to prevent these violations from occurring in the future. This section must include, but is not be limited to:
 - a. A description and documentation that the County is taking the appropriate actions to become in compliance with the Order. This description should report any proposed or current changes to the organizational structure, including any changes in responsibilities of any department or the appointment of an individual or department to ensure compliance within multiple departments of the County or planned coordination efforts between the multiple departments of the County; and
 - b. A schedule of the process for the Watershed Protection Ordinance modification and adoption.
3. An inventory of all construction sites and inspections (high, medium, and low priority) within the County's jurisdiction in Fiscal Year 2007 – 2008, between October 1, 2007 and April 30, 2008. The inventory must include, but is not limited to:
 - a. The required inspection frequency of each construction site;
 - b. The date on which the inspections occurred; and
 - c. A narrative explanation for any failures to comply with the Order.
4. An estimate of the number of construction sites that were required to be inspected that the County did not inspect in the between October 1, 2007 and November 10, 2007.
5. An inventory of all construction sites and inspections (high, medium, and low priority) within the County's jurisdiction in Fiscal Year 2008 – 2009, between October 1, 2008 and November 10, 2008. The inventory must include, but is not limited to:
 - a. The required inspection frequency of each construction site;
 - b. The date on which the inspections occurred; and
 - c. A narrative explanation for any failures to comply with the Order.

6. An estimate of the number of construction sites that were required to be inspected that the County did not inspect between October 1, 2008 and November 10, 2008.
7. Description of how the County implements or requires the implementation of adequate BMPs through the period of October 1, 2007 – November 10, 2007 and October 1, 2008 – November 10, 2008, and were in compliance with the Order.
8. An estimate of the costs incurred by the County to conduct typical inspections of high, medium, and low priority construction sites.


The submitted Required Technical Report shall be signed in accordance with Order No. R9-2007-0001, Attachment B.5(b)(1)-(5) Signatory and Certification Requirements and contain the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Failure to submit the above information by the date requested may result in the imposition of administrative civil liability pursuant to CWC sections 13268 and 13385.

Questions pertaining to this Required Technical Report and the enclosed Notice of Violation should be directed to Kristin Schwall at (858) 467-2345 or kschwall@waterboards.ca.gov. Written correspondence should be directed to the following address:

Michael P. McCann
Assistant Executive Officer
Attn: Kristin Schwall
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

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December 23, 2008

<p>IN THE MATTER OF:</p> <p>The County of San Diego Land Development Division 1600 Pacific Highway, Room 212 San Diego, CA 92101</p> <p>Attn: Chandra Wallar Deputy Chief Administrative Officer</p>	<p>NOTICE OF VIOLATION NO. R9-2008-0164</p> <p>In reply refer to: CWU:255223:kschwall</p> <p>WDID NOs.</p> <p>9 0000510S1</p>
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Order No. R9-2007-0001, NPDES No. CAS0108758

YOU ARE HEREBY NOTIFIED THAT:

You are in violation of waste discharge requirements contained in California Regional Water Quality Control Board, San Diego Region (Regional Board) Order No. R9-2007-0001, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0108758, *Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport* (Order). Such violation subjects you to possible enforcement action by the Regional Board, including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

On December 2, 2008, the Regional Board met with San Diego County staff (County) to evaluate to discuss San Diego County's Jurisdictional Urban Runoff Management Program (JURMP) and JURMP Annual Report Fiscal Year 2007 – 2008 (Annual Report) required by Section J.1.a and J.3.a, respectively of Order No. R9-2007-0001. Below is a summary of alleged violations:

SUMMARY OF VIOLATIONS:

I. Failure to Provide Authority to Achieve Full Compliance with the Order

- Order R9-2007-0001, Provision D, Jurisdictional Urban Runoff Management Program, 2.a(1)):

"Within 365 days of adoption of this Order, each Copermittee shall review and update its grading ordinances as necessary to achieve full compliance with this Order, including requirements for the implementation of all designated BMPs and other measures."

Observation: The JURMP and the Annual Report state that the County adopted modifications to their Watershed Protection Ordinance on March 12, 2008, which became effective April 12, 2008. The adopted ordinance defined the rainy season as November 11 – April 30. The adoption of this rainy season definition is in violation of the Order's definition of wet season of October 1 – April 30 (Attachment C, of the Order)

II. Failure to Require Construction Site BMPs During the Wet Season

- Order R9-2007-0001, Provision D, Jurisdictional Urban Runoff Management Program, 2.c(3):

"Each Copermittee shall implement, or require implementation of, the designated minimum BMPs and any additional measures to comply with this Order at each construction site within its jurisdiction year round."

Observation: During the meeting, the County informed the Regional Board that only Weather Triggered Action Plans are required at construction sites until November 11. Therefore wet season BMPs are not fully implemented or required to be implemented at these construction sites as of October 1 in violation of the Order.

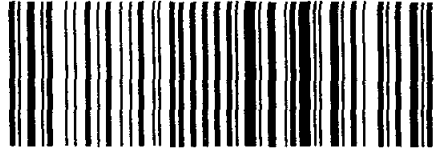
III. Failure to Inspect Construction Sites During the Wet Season

- Order R9-2007-0001, Provision D, Jurisdictional Urban Runoff Management Program, 2.d(1)-(3):

"Each Copermittees shall conduct construction site inspections for compliance with its local ordinances (grading, storm water, etc.), permits (construction, grading, etc.), and this Order. During the wet season, each Copermittee shall inspect at least ..."

Observation: The County has implemented requirements Order R9-2007-0001 beginning in fiscal year 2007-2008. As reported in the Annual Report Attachment 3.1, the County conducted inspections and operated their construction component under their internally defined rainy season of November 11 – April 30. Attachment 3.1.2 contains a column header of "Wet weather inspection data November 11, 2007 – April 30, 2008". Attachments 3.1.3, 3.1.4, and 3.1.5 contain a column header of a similar title, which is cropped and reads "Wet weather inspection data (Nov. 11 thru". When

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PS Form 3800, August 2006 See Reverse for Instructions

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1. Article Addressed to:

*Charles Walker
County of San Diego
Land Development Division
1600 Pacific Highway, Room 212
San Diego, CA 92101*

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